**REMARKS**

Reconsideration and allowance of the subject application are respectfully requested. Claims 1-26 are pending in the present application, claims 1, 9, 15, and 21 are independent.

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35 U.S.C. § 102 Rejections

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Claims 1, 4, 8, 9, 15, 21, and 22 stand rejected under 35 U.S.C. §102(e) as being anticipated by Chen et al. (U.S. Patent No. 5,982,760). This rejection is respectfully traversed.

With regard to claim 1, Applicants assert that Chen et al. fail to disclose calculating, at the base station, an interference measure based on a first power, where the first power is the power of a pilot signal received at the mobile unit; and setting an initial power level in a forward link based on said interference measure as recited in claim 1. Instead, Chen et al. discloses a mobile unit 12 that receives an already initiated forward link signal (Col. 5, lines 33-40). Based on measurements of the forward link signal, interference factors are computed at the mobile unit 12 and a power control message is generated by the mobile unit 12 (Col. 5, lines 47-67). The mobile unit transmits the power control messages to base stations 16a and 16b (Col. 6, lines 8-21). Forward link transmitter system 36 of the base stations 16a and 16b, in response to the power control messages, either increases, maintains, or decreases the power of the forward link signal (Col. 6, lines 32-35). Based on the disclosure of Chen et al., Applicants assert that Chen et al. does not disclose : a.) calculating, at the base station, an

interference measure based on . . . the power of a pilot signal received at the mobile unit, b.) an interference measure based on . . . the power of a pilot signal, c.) setting the initial power level in a forward link based on the interference measure, the interference measure based on . . . the power of a pilot signal, and d.) setting the initial power level in a forward link as recited in claim 1.

To emphasize the point that the pilot signal power received at a mobile station is not disclosed by Chen et al. as being used in adjusting forward link power, Applicants point out that the term "pilot signal" is only used once throughout the disclosure of Chen et al. where the pilot signal is used to adjust a reverse link (Col. 13, lines 37-46). Applicants assert that there is no disclosure within Chen et al. that a pilot signal is used for anything other than adjusting a reverse link.

Further, the Examiner suggests on pages 15 and 16 of the Office Action that the Applicants' previous traversals based on setting an initial power level in a forward link based on an interference measure were and still are inadequate. Applicants assert that the Examiner has taken the initial power language out of context. Applicants again assert that Chen et al. fail to disclose an interference measure based on a pilot signal received at a mobile unit and setting an initial power level in a forward channel based on the interference measure. The claims recite an interference measure based on a pilot signal received at a mobile unit. Despite the independent claims reciting an interference measure based on a pilot signal

received at a mobile unit, the Examiner suggests that Col. 3, lines 7-13 disclose an interference measure as in claim 1. Applicants disagree. Applicants submit that the Examiner has misstated what is in the disclosure of Chen et al. at Col. 3, lines 7-13 at least because Chen et al. do not disclose a pilot signal.

Moreover, the Examiner also suggests that a setting of an initial power level is disclosed at Col. 3, lines 7-13 wherein Chen et al. teaches when the quality of the feedback link becomes unacceptable, the base station and mobile station preferably enter into an alternative mode of operation, adjusting from a fast power control feedback mode to a slow power control feedback mode. Applicants disagree. Applicants assert that the setting of an initial power level is not disclosed at Col. 3, lines 7-13. Instead, an adjustment of feedback mode is taught. Given that an adjustment is being made to an already initiated signal as taught in Chen et al., Applicants assert that Col. 3, lines 7-13 do not disclose a setting of an initial power. Applicants' argument that an initial power is not being set by Chen et al. is supported at Col. 6, lines 32-35 where Chen et al. disclose a forward link transmitter system 36 of the base stations 16a and 16b, in response to the power control messages, either increases, maintains, or decreases the power of a forward link signal.

Further, the Examiner suggests on page 2 of the Office Action that Col. 6, lines 51-56 disclose a setting of an initial power level. Applicants

assert that such a setting is nowhere to be found in the lines cited by the Examiner and request the Examiner to elaborate.

The Examiner further asserts on page 2 of the Office Action that Chen et al. disclose a “pilot signal” at Col. 3, lines 50-60. Again, Applicants find absolutely no basis for the Examiner’s assertion and request the Examiner show that a “pilot signal” is disclosed at Col. 3, lines 50-60. To assist the Examiner, Applicants point out that the term “pilot signal” is only used once throughout the disclosure of Chen et al. at Col. 13, lines 37-46 in a discussion of adjusting a reverse link.

The Examiner further asserts on page 3 of the Office Action that Chen et al. again disclose a setting of an initial power level at Col. 4, lines 26-42. Again, Applicants see no basis for such a conclusion and request the Examiner to elaborate.

Applicants assert that almost every element of the Examiner’s rejection of claim 1 is without basis and the line references cited by the Examiner do not state what the Examiner asserts they state.

For at least the above reasons, Applicants assert that Chen et al. cannot disclose or suggest calculating, at the base station, an interference measure based on a first power, where the first power is the power of a pilot signal received at the mobile unit; and setting an initial power level in a forward link based on said interference measure as recited in claim 1.

With regard to independent claims 9, 15, and 21, claims 9, 15, and 21 include an interference measure based on a pilot signal received at a mobile

unit and setting an initial power level in a forward channel based on the interference measure as in independent claim 1 and are allowable for reasons stated in the traverse of claim 1 above.

With regard to claims 4, 8, and 22, Applicants assert that they are allowable at least because they depend from one of independent claims 1 and 21.

Applicants respectfully request that the art grounds of rejection be withdrawn.

35 U.S.C. § 103 Rejections

Claim 2 is rejected under 35 U.S.C. 103(a) as being unpatentable over Chen et al. Applicants respectfully traverse.

The Examiner asserts on page 6 of the Office Action that Col. 3, lines 11-19 disclose a pilot signal. Applicants disagree and assert that Col. 3, lines 11-19 do not disclose a pilot signal. Applicants assert that the rejection is improper because it includes assertions by the Examiner with regard to a pilot signal that are not supported by the art cited by the Examiner, Chen et al.

The Examiner admits on page 6 of the Office Action that Chen et al. fail to disclose the steps of calculating the difference of power at the base station. The Examiner attempts to make up for the deficiencies of Chen et al. using Official Notice. Applicants assert that the Examiner has left out in setting up the basis for the Examiner's rejection that the powers of claim 2 are powers of pilot signals. The Examiner has not addressed this limitation

even in the Examiner's official notice. Applicants assert that the Examiner's official notice is improper because it does not adequately address the pilot signal limitations of claim 2.

Moreover, Applicants assert that the Examiner's motivation to support the Examiner's official notice is improper because the Examiner again failed to address the limitation of a pilot signal.

Again, Applicants point out that the term "pilot signal" is only used once throughout the disclosure of Chen et al. where the pilot signal is used to adjust a reverse link (Col. 13, lines 37-46). Applicants assert that there is no disclosure within Chen et al. that a pilot signal is used for anything other than adjusting a reverse link.

Claim 2 is not made obvious to one skilled in the art by Chen et al. Furthermore, the Examiner's official notice does not address the deficiencies of claim 1 as shown in the traverse of claim 1 above. Claim 1 is not made obvious by the Examiner's official notice. Claim 2 is allowable at least because it depends from independent claim 1.

Applicants respectfully request the art grounds of rejection be withdrawn.

Claims 3, 5, 6, 12, 13, 18, 23, 24, and 25 are rejected under 35 U.S.C. 103 as unpatentable over Chen et al. in view of Love et al. Applicants respectfully traverse.

As shown above in the traverse of claims 1, 9, 15, and 21, Chen et al. fail to disclose an interference measure based on a pilot signal received at a

mobile unit and setting an initial power level in a forward link based on the interference measure.

Love is directed to a method for controlling the communication system forward link capacity by receiving gain information from at least one forward link, comparing the gain information with a gain threshold, and based on the comparison, adjusting an encoding rate of at least one of the forward links (Col. 3, lines 11-19).

Love addresses the signal interference by adjusting the forward link encoding rate (R) (Love, col. 4, ll. 56-57). The forward link signal received at the mobile station is maintained at a level to provide adequate frame error rates at the mobile station (Love, col. 4, ll. 57-60). At the same time a gain, that was decided to be adequate to overcome the interference, is scaled by a factor (r) that is proportional to the square root of the new and previous encoding rate (Love, col. 4, ll. 60-64). Love states that dropping the encoding rate (R) allows a drop in gain in the forward link and as a result less interference is created (Love, col. 5, ll. 1-8). Thus when a mobile station detects poor frame error rate, it requests a higher gain setting for its associated forward link signal.

Therefore, Love addresses the interference problem by changing the channel encoding rate, which results in a power decrease when a gain value is greater than a set threshold level. In Love the gains are related to the power, which is related to the energy per chip multiplied by chip rate R_c (Love, col. 4, equation 2). Therefore, Love fails to disclose or suggest an

interference measure based on a pilot signal received at a mobile unit and setting an initial power level in a forward link based on the interference measure. Claims 1, 9, 15, and 21 are not obvious to one skilled in the art by Chen et al. in view of love. Claims 3, 5, 6, 12, 13, 18, 23, 24, and 25 are allowable at least because they depend from one of independent claims 1, 9, 15, and 21.

Applicants respectfully request the art grounds of rejection be withdrawn.

Claims 7, 14, 20, and 26 are rejected under 35 U.S.C. § 103(a) as being unpatentable over Chen et al. in view of Meidan et al. (U.S. Patent No. 5,193,102). Applicants respectfully traverse.

As shown above in the traverse of claims 1, 9, 15, and 21, Chen et al. fail to disclose an interference measure based on a pilot signal received at a mobile unit and setting an initial power level in a forward link based on the interference measure.

Meidan et al. is directed to an apparatus containing an estimator that estimates the carrier to interference power ratio of a slow frequency hopping signal by using input data samples of the hop to estimate carrier to interference power ration with a metric at least comprising a monotonically related function (Col. 18, lines 36-47). Meidan et al. does not disclose or suggest an interference measure based on a pilot signal received at a mobile unit and setting an initial power level in a forward link based on the interference measure as recited in independent claims 1, 9, 15, and 21.

Claims 1, 9, 15, and 21 are not made obvious to one skilled in the art by Chen et al. in view of Meiden. Claims 7, 14, 20, and 26 are allowable at least because they depend from one of claims 1, 9, 15, and 21.

Applicants respectfully request the art grounds of rejection be withdrawn.

Claims 10 and 16 are rejected under 35 U.S.C. § 103(a) as being unpatentable over Chen et al. in view of Nakano et al. Applicants respectfully traverse.

As shown above, Chen et al. fail to disclose an interference measure based on a pilot signal received at a mobile unit and setting an initial power level in a forward link based on the interference measure.

Nakano et al. is directed to a method for controlling a mobile unit's power transmission, where a base station includes a pilot signal generating circuit for generating a pilot signal that has a constant transmission power level and where the mobile units include a pilot signal reception level measuring circuit for measuring reception power of the received pilot signal. The mobile units have a transmission power control circuit for controlling transmission power of a power amplification circuit based on the measured reception power of the received pilot signal (Nakano et al., Abstract). Thus, Nakano et al. fails to disclose or suggest an interference measure based on a pilot signal received at a mobile unit and setting an initial power level in a forward link based on the interference measure as recited in independent claims 9 and 15. Claims 9 and 15 are not made obvious to one skilled in

the art by Chen et al. in view of Nakano et al.. Claims 10 and 16 are allowable at least because they depend from one of independent claims 9 and 15.

Applicants respectfully requests that the art grounds of rejection be withdrawn.

Claims 11, 17, and 19 are rejected under 35 U.S.C. 103(a) as being unpatentable over Chen et al. in view of Nakano et al. and in further view of Love et al.

As discussed above, Chen et al., Nakano et al., and Love et al. fail to disclose an interference measure based on a pilot signal received at a mobile unit and setting an initial power level in a forward link based on the interference measure as recited in claims 9 and 15. Claims 11, 17 and 19 are allowable at least because they depend from one of claims 9 and 15.

Applicants respectfully request the art grounds of rejection be withdrawn.

CONCLUSION

In view of the above amendments and remarks, Applicants respectfully request reconsideration and withdrawal of the formal objections and rejections to the claims, and the rejections based on prior art. Because all claims are believed to define over prior art of record, Applicants respectfully request an early indication of allowability.

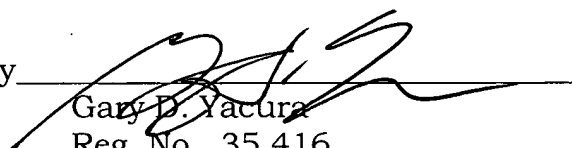
If the Examiner has any questions concerning this application, the Examiner is requested to contact the undersigned at (703) 668-8000 in the Washington, D.C. area.

If necessary, the Commissioner is hereby authorized in this, concurrent, and future replies, to charge payment or credit any overpayments to Deposit Account No. 08-0750 for any additional fees required under 37 C.F.R. §§1.16 or 1.17; particularly, extension of time fees.

Very truly yours,

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